

Form NLRB-5168
(1995 - JW)

Case No. 2-CA-38252

AFFIDAVIT

COUNTY OF NEW YORK)

) SS:

STATE OF NEW YORK)

I, Jian Yun Chen, hereby affirm as follows:

I have been given assurances, by an agent of the National Labor Relations Board, that this affidavit will be considered confidential by the United States Government and will not be disclosed unless it becomes necessary for the government to produce the affidavit in connection with a formal proceeding.

My home address is 391 8th Avenue, Apt. 1A, New York, NY 10001.

My telephone number is 917-547-2340.

1. I worked as a delivery person for the Saigon Grill from about 1999 through early morning March 3, 2007. I worked at the 620 Amsterdam/90th Street location from about 2003 until the day I was terminated. The owner, Simon, was my boss. Simon's wife, Michelle, was also my supervisor as well as Simon's older sister, Lena.

2. At the time I was terminated I worked from 11:00 to 11:30 p.m. Monday through Friday. On Saturdays and Sundays, I worked from 5:00 p.m. to 11:30

p.m. The Saigon Grill paid me \$560 a month and I earned approximately \$600 a week in tips. About 20 other delivery people worked at my location.

3. The 90th Street and Amsterdam location covers about a half-block on Amsterdam Avenue between 90th and 91st Street. The restaurant has a main entrance and also a side door. The side door is used by the delivery people to go in and out of the restaurant. When the delivery people are not busy, they often hang out on the sidewalk in the area near the side door. The distances between the two entrances are about 12 steps.

4. At about 5:00 or 6:00 p.m. on February 4, 2007, I participated in a discussion with some other delivery people while we were standing outside the side door of the restaurant. The others present were Yu Guan Ke, Jian Le Lin, Yu Han Zhou, and Shu Hui Chen. During this conversation, Yu Guan Ke asked us if we wanted to join 318 Restaurant Workers Union and join a lawsuit against the owners of the restaurant for their illegal act of not paying us the minimum wage. We discussed the possibility of joining the Union. All of us told Yu Guan Ke that we wanted to join the Union and participate the lawsuit. This conversation lasted about 10-15 minutes.

5. At about 5:00 p.m. on March 2, 2007, I participated in another discussion about the Union and the lawsuit outside the side door. Almost all of the 20 other delivery people participated in this discussion. During the discussion, Yu Guan Ke showed us a sheet of paper that was entitled "Letter of Authorization and Letter of Consent", which was an agreement to indicate one's consent in joining

the lawsuit against my employer. There were also guidelines and basic principles listed for participation. Yu Guan Ke explained this document to us. Many of us signed this agreement, including me. Yu Guan Ke also showed us some samples of authorization cards to join the Union, but he did not bring any of these for us to sign. This conversation lasted about 30 minutes.

6. During this conversation, Simon and Michelle arrived the restaurant front entrance in their car. They parked at the meter in front of the restaurant, exited the car and entered the restaurant by the main entrance. I saw Simon looking at the us while we were signing the authorization sheet. Simon did not say anything to us at that time.

7. At about 7:00 p.m. that night, when I returned to the restaurant after making a delivery, Michelle told me to stay after work that evening to attend a meeting.

8. After 12:00 a.m. that night, all of the delivery persons gathered in the room in the rear of the restaurant with Simon and Michelle. Simon said, "Today you were signing on a sheet of paper when you were outside. What was it that you were doing?" He said that he wanted to look at the paper that we were signing. None of us spoke up. Then Simon said, "Today we are going to resolve all the problems." He said he didn't want us to sue him and he didn't want us to join the Union. Next, Simon held up two documents, one in English and one in Chinese, but he did not let us read the content. Simon pressured us to sign on these two documents. Simon said that only if we sign our names, then all of the

problems in the past would be resolved, and he would then give us a raise. He said he would then pay us \$35 for a full-day shift and \$20 for a half-day shift. He also threatened that if we do not sign our names on the documents, he will close down the take-out order tomorrow.

9. Simon and Michelle stepped away for a few minutes. While they were gone, we discussed Simon's offer. We figured out that even with the raise, we would not be able to reach the level of minimum wage. Therefore, we decided to refuse to sign Simon's documents. When Simon and Michelle returned, Yu Guan Ke told them that we would not sign the documents. Michelle said that if we refuse to sign the documents, they would close down the delivery department tomorrow and all the delivery people would be fired. Michelle told us not to come to work tomorrow. The meeting then came to an end. We all left the restaurant. This meeting lasted approximately one and a half hour.

10. Since March 6, 2007, we have been picketing in front of the two restaurant locations. We picket in front of the 90th Street location 3 days a week, and we picket in front of the University Place location 2 days a week. I have participated in the picketing every day.

11. Sometime around the end of March, 2007, while we were picketing, I saw Michelle passing out flyers to pedestrians outside of the University Place location. Although this flyer is in English, someone translated it to me. It calls the former delivery persons rascals and gang members. The same day, Simon started videotaping the picketing. He stood in front of the restaurant near the

entrance, facing the picketers. He stood about 8 feet away from us. He videotaped us for about an hour that day, until picketing was over. Since that day, someone has videotaped the picketers about once or twice each week, at both locations. At the 90th Street location, sometimes Lena videotapes us and sometimes it is Simon's nephew who videotapes us. At the University Place location, Simon sometimes videotapes us and at others times the manager, Tony, videotapes us. Every time, the person who videotapes us always stands by the entrance of the restaurant facing the picketers. Once, about 10 days to 2 weeks ago, Lena even gave us "the finger" (she raised her middle finger) to insult us. She didn't say anything when she made this gesture.


I have read this statement consisting of 4 pages, including this page, I fully understand its contents and I certify that it is true and correct to the best of my knowledge and belief.

Jian Yun Chen

Subscribed and affirmed to before me at
26 Federal Plaza, New York, New York
This 22nd day of June, 2007

Nancy Slahetka, Board Agent
National Labor Relations Board

I certify that I am fluent in Chinese and English. Further, I certify that the foregoing is a true and correct translation of the June 22, 2007 affidavit of Jian Yun Chen.


So You Chen
April 23, 2008

案例編號：2-CA-38252

宣誓書

紐約州)
) SS:
紐約縣)

本人 Jian Yun Chen 茲聲明下列事項：

全國勞工關係委員會的代表已向我保證：美國政府視本宣誓書為保密文件，除非政府因正式訴訟需要出示本宣誓書，否則不會公開宣誓內容。

我的家庭地址是 391 8th Avenue, Apt. 1A, New York, NY 10001。

我的電話號碼是 917-547-2340。

1. 從 1999 年左右到 2007 年 3 月 3 日清晨，我一直是 Saigon Grill 的外賣員。從 2003 年左右到我被解雇那天為止，我一直在 620 Amsterdam/90th Street 分店工作。餐廳所有者 Simon 是我的老闆。Simon 的妻子 Michelle 和 Simon 的姐姐 Lena 都是我的上司。
2. 當我被解雇時，我在週一到週五從上午 11:00 點工作到晚上 11:30；週六和周日，從下午 5:00 點工作到晚上 11:30。Saigon Grill 每月支付我 560 美元，我每週賺取約 600 美元的小費。該分店除了我之外，還有約 20 名外賣員。

J. C

3. 90th Street / Amsterdam 分店約占 Amsterdam Avenue 的半個街區，介於 90th 和 91st Street 之間。餐廳設有一扇正門和一扇側門。側門專供外賣員出入餐廳。空閒時，外賣員常常聚在側門附近的人行道上。這兩扇門相距約 12 步。

4. 2007 年 2 月 4 日下午 5:00 點或 6:00 點左右，我和其他幾名外賣員站在餐廳側門外時，加入了他們的討論。在場的其他外賣員分別是：Yu Guan Ke、Jian Le Lin、Yu Han Zhou 和 Shu Hui Chen。在這次談話中，Yu Guan Ke 問我們是否想加入 318 餐廳工人工會，並共同起訴餐廳所有者未支付我們最低工資的違法行為。我們討論了參加工會的可行性。我們所有人都對 Yu Guan Ke 說，我們希望加入工會並參與法律訴訟。這次談話大概持續了 10-15 分鐘。

5. 2007 年 3 月 2 日下午 5:00 點左右，我在側門外參與了有關工會和法律訴訟的另一場討論。另外的 20 名外賣員幾乎都參加了討論。在這次討論過程中，Yu Guan Ke 給我們看一張紙，上面的標題為“授權書和同意書”。這是同意參加起訴我的僱主的協議書，上面還列出了參與指導原則。Yu Guan Ke 向我們解釋了該文件的內容。包括我在內的很多人都簽署了該協議。Yu Guan Ke 還給我們看了一些加入工會的授權卡樣本，但他沒有帶任何授權卡讓我們簽字。這次談話大概持續了 30 分鐘。

J. C

6. 在這次談話過程中，Simon 和 Michelle 開車到了餐廳正門。他們在餐廳前面的咪表處停好車，從車上下來，然後從正門進入餐廳。當我們在簽署授權單時，我看到 Simon 正望著我們。當時，Simon 沒有對我們說什麼。

7. 當晚 7:00 左右，我送完外賣回到餐廳時，Michelle 要我晚上下班後留下開會。

8. 晚上 12:00 點後，所有外賣員、Simon 和 Michelle 都集合到餐廳後面的房間。

Simon 說，“今天，你們在外面時在一張紙上簽字。你們在做什麼？”他說，他想看一下我們當時簽字的紙。我們都沒作聲。然後，Simon 說，“今天，我們要解決所有問題。”

他說，他不希望我們起訴他，也不希望我們參加工會。接著，Simon 拿起一英一中兩個文

J.C { 件 件 Simon 逼 件 Simon 只要我們簽了字
檔，但他沒讓我們看文檔的內容。~~他說，他希望~~我們在這兩個文檔上簽字。~~他說，我們可~~
以認為過去的所有問題都解決了，如果我們在文檔上簽字，他就給我們加薪。他說，他付
他還威脅說，如果我們不在文件上簽名，~~他~~明天就
我們全天班 35 美元，半天班 20 美元。會關閉外賣部。

9. Simon 和 Michelle 離開了幾分鐘。當他們走開時，我們討論了 Simon 的建議。我們覺得，即使他給我們加薪，我們還是沒有達到最低工資水準。因此，我們決定拒絕在

Simon 的文檔上簽字。當 Simon 和 Michelle 回來時，Yu Guan Ke 告訴他們，我們不會在
文檔上簽字。Michelle 說，如果我們不在文檔上簽字，明天他們就關閉外賣部，並解雇所

C. J

J. C

有外賣員。Michelle 告訴我們明天不用上班了。會議就這樣結束了。我們都離開了餐廳。

這次會議大概持續了 ^{1 個半} 小時。 ^{左右} J.C

10. 從 2007 年 3 月 6 日起，我們就一直在兩家分店前示威。我們每週在 90th Street 分店前示威 3 天，在 University Place 分店前示威 2 天。我每天都參加示威活動。

11. 大概在 2007 年 3 月末的某天，在我們示威的時候，我看到 Michelle 向 University Place 分店外面的行人分發傳單。雖然傳單上的內容是用英語寫的，但有人把內容翻譯給我聽。傳單將以前的外賣員叫做流氓和幫派人員，^{J.C} ~~並鼓勵人們報警~~。同一天，Simon 開始拍攝示威活動。他站在餐廳前面的入口附近，面朝示威者。他就站在離我們約 8 英尺的地方。那天，他大概拍攝了一個小時我們的錄像，直到我們結束示威為止。從那天起，這兩個地方一直都有人拍攝示威人員，每週錄像一到兩次。在 90th Street 分店，有時是 Lena 拍攝我們，有時是 Simon 的侄子拍攝我們。在 University Place 分店，有時是 Simon 拍攝我們，其他時間是經理 Tony 拍攝我們。每次，拍攝我們的人都是臉朝示威人員，站在餐廳入口處拍攝我們。有一次，大概在 10 天到 2 週以前，Lena 還用“手勢”侮辱我們（她向我們豎中指）。當她做這個動作時，她沒有說任何話。

本聲明共 4 頁（含本頁）。我已經閱讀了本聲明。我完全理解聲明的內容，並證明據我所知所信聲明內容正確、屬實。

J.C

CHEN Jian YUN
Jian Yun Chen

於 2007 年 6 月 ²² 日
在 26 Federal Plaza, New York, New York
當本人面簽署和聲明

Nancy Slahetka
Nancy Slahetka, 委員會代表
全國勞工關係委員會